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AKERMAN SENTERFITT			FINEMAN, LEE A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip@akerman.com

Office Action Summary	Application No. 10/595,879	Applicant(s) CHAPMAN, THOMAS	
	Examiner LEE FINEMAN	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 17-22 and 24 is/are rejected.
- 7) ☒ Claim(s) 12-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/17/06, 4/29/09, 3/29/10 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to an after-final amendment filed 29 March 2010 in which claims 22 and 24 were amended. The amendment has been entered. Claims 1-22 and 24 are pending.

1. The indicated allowability of claims 1-11 and 17-21 is withdrawn in view of the newly discovered reference(s) to Geis, US 880,378. Rejections based on the newly cited reference(s) follow. The examiner regrets any inconvenience caused by this action.

Drawings

2. A drawing was received on 29 March 2010. This drawing is acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 22 rejected under 35 U.S.C. 102(b) as being anticipated by Geis, US 880,378.

Regarding claims 1-3, Geis discloses a viewing device (figs. 1-3) that includes a main body (page 1, column 2, line 85), a first reflective surface(m), a second reflective surface (n), a means (a and b) adapted for removably securing said body to a sighting device (the rifle, in at

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least so far as the barrel can be used as a sight), wherein the first and second reflected surfaces are contained within the body (page 1, column 2, lines 83-87), the first reflective surface (m) adapted to direct an incoming light beam from a first aperture (see fig. 3 and inherent to the housing) to the second reflective surface (n, fig. 3), wherein the first and second reflective surfaces are not positioned parallel to one another (as either mirror can be pivoted, there are many positions where the first and second reflective surfaces are not positioned parallel to one another, see page 1, lines 53-67 and figs. 2-3), and the second reflective surface(n) adapted to direct the reflected light beam at an angle of between 35 degrees and 60 degrees or between 40 and 55 degrees or an angle of 50 degrees (see page 1, lines 53-67, as either mirror can be pivoted, the second reflective surface is easily adapted to most angles including the claimed angles) relative to the incoming light beam through a second aperture (inherent to the housing), so that the incoming light beam and the reflected light beam do not cross over one another (figs. 1-3), for viewing by a user (figs. 1-3).

Regarding claim 4, Geis further discloses wherein the second reflective surface (n) is positioned at an angle of less than 90 degrees relative to a plane perpendicular to the incoming light beam (fig. 3).

Regarding claim 22, Geis further discloses a method of viewing around an obstacle including: (a) providing a viewing device (figs. 1-3) that includes a main body (page 1, column 2, line 85), a first reflective surface (m), a second reflective surface (n), a means (a and b) adapted for removably securing said body to a sighting device (the rifle, in at least so far as the barrel can be used as a sight), wherein the first and second reflected surfaces are contained within the body (page 1, column 2, lines 83-87), the first reflective surface (m) adapted to direct

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an incoming light beam to the second reflective surface (fig. 3), wherein the first and second reflective surfaces are not positioned parallel to one another (as either mirror can be pivoted, there are many positions where the first and second reflective surfaces are not positioned parallel to one another, see page 1, lines 53-67 and figs. 2-3), and the second reflective surface (n) adapted to direct the reflected light beam at an angle of between 35 degrees and 60 degrees relative to the incoming light beam (see page 1, lines 53-67, as either mirror can be pivoted, the second reflective surface is easily adapted to most angles including the claimed angles), so that the incoming light beam and the reflected light beam do not cross over one another (fig. 3); (b) mounting said viewing device onto a rear most section of the sighting device (fig. 1); (c) then viewing the reflected light beam through a rear of the body such that a head of a user looking through the viewing device is not substantially inline with the incoming light beam (fig. 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-10, 17-18 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geis in view of Avizonis, Jr. US 6,643,969 B1 (henceforth Avizonis).

Regarding claims 5-10, 17-18 and 24, Geis further discloses wherein the incoming light beam is directed to a side of a weapon on which the viewing device is mounted (see fig. 1) and wherein the reflective surfaces are mirrors (n and m). Geis discloses the claimed invention

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except wherein the viewing device is removably secured to a rear eyepiece of a conventional riflescope sighting device by a friction fit; wherein the viewing device can be readily rotated about the sighting device, to direct the incoming light beam to either side of the weapon; wherein the means adapted to removably secure the viewing device to a sighting device is a clip adapted to hold the viewing device with positive engagement to the sighting device; wherein the viewing device is removably connected to a mounting member by a pivot means such that the viewing device can be mounted on a weapon and rotated about a sighting device of the weapon, to direct the incoming light beam to either side of the weapon; and wherein the body of the viewing device is constructed from high impact resistant material. Avizonis discloses in figs. 5 and 6 a viewing device (1) that includes a main body (3 and 5), a first reflective surface (9), a second reflective surface (7), a means (23) adapted for removably securing said body to a conventional riflescope sighting device (LS, column 3, lines 3-4) by a friction fit (see column 4, line 41-column 5, line 11); wherein the incoming light beam (from A1) is directed to a side of the weapon (fig. 5) on which the viewing device is mounted; and wherein the means adapted to removably secure the viewing device to a sighting device is a clip (27') adapted to hold the viewing device with positive engagement to the sighting device; wherein the viewing device is removably connected to a mounting member (27) by a pivot means (23) such that the viewing device can be mounted on a weapon and rotated about a sighting device of the weapon, to direct the incoming light beam to either side of the weapon (see column 4, line 41-column 5, line 11); and wherein the body of the viewing device is constructed from high impact resistant material (in at least so far as the material has a higher impact than other materials like glass). It would have been obvious to one of ordinary skill in the art to add a conventional sighting device as taught by

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Avizonis to the rifle of Geis to provide better aiming capabilities. Further, it would have been obvious to one of ordinary skill in the art to make the viewing device of Geis be removably secured to the conventional sighting device by a friction fit or clip or mounting means as taught by Avizonis to have more flexibility to view from either side of the weapon (Avizonis, column 4, line 41-column 5, line 11). Also, it would have been obvious to one of ordinary skill in the art to make the body of the viewing device of Geis to be made of a high impact resistant material as taught by Avizonis to provide a covering resistant to breakage. Finally, Official notice is taken that it is very well known for weapon sights like riflescopes to have a rear eyepiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the viewing device to the rear eyepiece of the conventional sighting device to relay the appropriately focused image to the eye.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geis in view of Avizonis as applied to claim 10 above and further in view of Fantone, US 5,526,177.

Geis in view of Avizonis as applied to claim 10 above disclose the claimed invention except for wherein relay lenses are incorporated into the viewing device to provide eye relief. Fantone teaches in fig. 8 and column 5, lines 51-67 incorporating relay lenses into a viewing unit to maintain a sharp focus when viewing over the longer distance which provides eye relief in that the image is easier to view. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add relay lenses to the viewing unit of Geis in view of Avizonis to maintain a sharp focus of the image (Fantone, column 5, lines 51-67).

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8. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geis in view of Avizonis as applied to claim 18 above and further in view of Giuffre et al., US 5,054,225 (henceforth Giuffre).

Geis in view of Avizonis as applied to claim 18 above disclose the claimed invention except for wherein an imaging apparatus can be attached to a rear of the body to capture the reflected light path; wherein the imaging apparatus is a fiber optic cable; and wherein the imaging apparatus is a device that generates video images. Giuffre teaches in figs. 1-4 adding an imaging apparatus (22 or 50) can be attached to a rear of the body to capture the reflected light path; wherein the imaging apparatus is a fiber optic cable (22); and wherein the imaging apparatus is a device that generates video images (50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the imaging apparatus of Giuffre to the viewing device of Geis in view of Avizonis to be able to aim the device without the need to maintain a constant distance of a head position in relation to the optical portion of the aiming device (Giuffre, column 1, lines 30-35).

Allowable Subject Matter

9. Claims 12-16 would be allowable if rewritten to overcome the objection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter:

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Claims 12-16 have allowable subject matter over the prior art for at least the reason that the prior art fails to teach and/or suggest “wherein the viewing device is connected to a mounting member by a pivot means” as set forth in the claimed combination.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shono et al., US 4,279,489 disclose a viewing device with two reflecting surface that are not parallel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE FINEMAN whose telephone number is (571)272-2313. The examiner can normally be reached on Monday - Friday 8:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lee Fineman/

Primary Examiner, Art Unit 2872

8 April 2010